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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,029	09/30/2005	Laszlo Kerekes	27793-00097USPX	9254

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EXAMINER	
LIU, JONATHAN	
ART UNIT	PAPER NUMBER
3673	
MAIL DATE	DELIVERY MODE
09/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/520,029	KEREKES ET AL.	
	Examiner	Art Unit	
	JONATHAN J. LIU	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *1/24/2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In response to remarks filed 8/29/2008

Response to Arguments

1. Applicant's arguments filed 8/29/2008 have been fully considered but they are not persuasive.

With regards to applicant's amendments – the cover of Tufenkjian is *necessarily/inherently* tensioned when the plurality of pouches are filled with compressed air (lines 5-10).

Furthermore, in response to applicant's arguments against the references individually (e.g. wherein Tufenkjian fails to disclose that the outer or main covering [12] forms an actual seat or backrest surface), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Since the rejection is based on Tufenkjian and Bradbury, the combination teaches the aforementioned claim limitation.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tufenkjian (US 1,733,034) in view of Bradbury (US 4,826,249). Tufenkjian

discloses a seat cushion comprising a plurality of low-elasticity tubular pockets (2) arranged side by side such that adjacent sides of each tubular pocket are substantially contiguous along areas therebetween (see figure 3; Webster's II Dictionary of *contiguous*: "adjacent to: nearby"), contiguous areas of the plurality of tubular pockets being directly interconnected via seams (see figure 2); wherein each of the plurality of tubular pockets comprises a pouch (1) comprising an elastic plastic material with a valve (11); wherein the plurality of tubular pockets are enclosed by a shell (8, 12) made of a textile material of low elasticity; and wherein when the plurality of pouches are filled with compressed air, the shell is *necessarily* tensioned (see figure 3); and wherein a top surface of the tensioned shell form an actual seat or backrest surface (lines 5-10). With respect to the limitations of a "low-elasticity textile" [e.g. the pockets and the shell], it is within an ordinary level of skill in the art to vary the elasticity of the materials being used in inflatable devices – depending upon on expansion preferences (as set by manufacturer, etc.), which ultimately affects the resilience of the cushion. Although Tufenkjian is silent to the exact elasticity of the pockets and shell, it would have been obvious to make the materials of a low elasticity in order to provide a "tight" and stable cushion. Furthermore, the pockets and covers (e.g. 2, 8, 12) of Tufenkjian are *capable of* being of "low elasticity."

Although Tufenkjian does not teach a seat cushion *and* a backrest cushion, Bradbury teaches to use the same cushion structure for a seat cushion and a backrest cushion (see figure 3). Tufenkjian and Bradbury are analogous because they are from the same field of endeavor, i.e. cushions. It would have been obvious to modify the

invention of Tufenkjian to include a backrest member equivalent in structure to the seat cushion as disclosed (by Tufenkjian). The motivation would have been to provide adequate support for a user's back. Therefore, it would have been obvious to modify the invention to Tufenkjian as specified in claim 1.

With regards to claims 2 and 3, it is simply a matter of preference to design the seat/back cushions wherein the plurality of tubular pockets are either arranged parallel to a direction of the seat or across the seat cushion (as shown by Bradbury). It would have been an obvious matter of design since applicant has not disclosed that the pocket orientation solves any stated problems or is for any particular purpose and it appears that the invention would perform equally well with either of the claimed pocket orientations. Furthermore, it is well within an ordinary level of skill within the art to orient the pockets of Tufenkjian as preferred.

In regards to claim 4, all of the plurality of tubular pockets in the seat cushion and the backrest cushion are of the same size (see figure 3 of Tufenkjian).

With regards to claim 5, the cross dimensions of the plurality of tubular pockets are selected such that optimum seating comfort can be achieved (i.e. by the pouches being inflated).

Regarding claim 6, the pockets of the seat and the backrest cushions can be filled individually with compressed air (inherently taught by Tufenkjian: col. 2, lines 72-73).

Claim 8 is considered a product-by-process claim. "[E]ven though product-by process claims are limited by and defined by the process, determination of patentability

is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." [citations omitted] See MPEP 2113. The limitation of "is sewn" is treated as a method of production and therefore is given little patentable weight. Accordingly, Tufenkjian teaches wherein at least one of said plurality of tubular pockets is *connected* to the shell along further seams - Tufenkjian teaches "seams" (at 9, 10) [see above explanation/definition of "seam"].

4. Claims 7 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Tufenkjian (US 1,733,034) in view of Bradbury (US 4,826,249) as applied to claim 2, in further view of Sekido et al. (US 4,965,899). Tufenkjian as modified, teaches the invention of claim 2. However, Tufenkjian as modified, does not teach to vary the cross dimensions of the pockets along their longitudinal dimensions. Sekido et al. teach an inflatable cushion comprising tubular elements that vary along their longitudinal dimension (see figure 7). Tufenkjian and Sekido et al. are analogous because they are from the same field of endeavor, i.e. cushions. It would have been obvious to one of ordinary skill in the art to modify the tubular elements of Tufenkjian to vary along their longitudinal length. The motivation would have been to provide a more contoured surface, thereby increasing comfort. Therefore, it would have been obvious to modify the invention to Tufenkjian as specified in claim 7.

In regards to claim 9, Tufenkjian as modified (see above discussions with respect to claims 1 and 7), teaches an adaptive pneumatic seat cushion and backrest cushion

for vehicles and aeroplanes, each of the seat cushion and the backrest cushion (as modified by Bradbury) comprising: a plurality of low-elasticity textile tubular pockets (Tufenkjian: 2), each tubular pocket having an elongated axis defined by a length of the tubular pocket, the tubular pockets arranged side by side such that adjacent sides of each tubular pocket are substantially contiguous along areas therebetween (Tufenkjian: see figure 3); contiguous areas of the plurality of tubular pockets being directly interconnected via seams (Tufenkjian: see figure 2); wherein a height of each tubular pocket varies along the length of the axis such that a minimum height is located near an approximate midpoint of the axis (as modified by Sekido: see figure 7); wherein each of the plurality of tubular pockets comprises a pouch (Tufenkjian: 1) comprising an elastic plastic material with a valve (Tufenkjian: 11); wherein the plurality of tubular pockets are enclosed by a shell made of a textile material of low elasticity (Tufenkjian: 8, 12); and wherein, when the plurality of pouches are filled with compressed air, the shell is *necessarily* tensioned (Tufenkjian: see figure 3); and wherein a top surface of the tensioned shell forms an actual seat or backrest surface (lines 5-10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN J. LIU whose telephone number is (571)272-8227. The examiner can normally be reached on Monday through Friday, 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/
Supervisory Patent Examiner, Art Unit 3673

/J. J. L./
Examiner, Art Unit 3673